HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No.267 of 2006

Gajendra Chaudhary
S/o Sri Amarpal
R/o village Dhansaini
P.S. Titavi
District – Muzaffarnagar ...Applicant

Versus

1. State of Uttaranchal
2. S.H.O., P.S. Kankhal
District – Haridwar ...Respondents

Sri Vivek Shukla learned counsel for the applicant.
Sri Rajeev Mohan, learned A.G.A. for the State.

Hon'ble J. C. S. Rawat, J.

1. The petition under section 482 Cr.P.C. has been filed for quashing the chargesheet and summoning order dated 9.2.2006 passed by the Judicial Magistrate, District Haridwar in criminal case No.815/2006 State Vs. Sanjay & others under sections 147, 332, 353, 307, 341, 336, 333 IPC and 7 Criminal Law Amendment Act.

2. Brief facts of the case are that on 30.11.2005 the informant lodged an FIR against the present applicant and others alleging thereing that ex-president of Gurukul Kangari University had an apprehension of losing his second election of the president. Therefore, Sanjay Chauhan alongwith other students created unruly atmosphere in the University Campus in order to sabotage the election. It was further alleged that Sanjay Chauhan hit on the forehead of S.I. Devi Prashad Bahuguna with a stone. The police investigated the matter and submitted the chargesheet. Thereafter, the Magistrate summoned the present applicant vide order

dated 9.2.2006. Feeling aggrieved by this, the present petition has been filed.

3. Heard Sri Vivek Shukla learned counsel for the applicant and Sri Rajeev Mohan learned A.G.A. for the State.

4. Learned counsel for the applicant contended that the present applicant was not named in the FIR and his name was added later on as an accused. It was further contended that the injured has not mentioned the name of the present applicant in his statement which was recorded on the date of incident. In the second statement recorded on 30.11.2005, the name of the present applicant has been disclosed. The applicant is already on bail. While exercising jurisdiction under section 482 Cr.P.C., this Court cannot embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained.

5. In view of the above, it would not be just and proper to evaluate the statements of the injured at this stage. The applicant can raise these pleas before the trial court at the time of framing of charge. The trial court will consider the pleas of the applicant during the trial and thereafter the trial court will pass the appropriate order in accordance with law.

6. In view of the foregoing discussion, the petition is disposed of.

(J.C.S. Rawat, J.

Dated 28.04.2006

LSR